**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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**WRIT PETITION No.25554 of 2005**

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**Dated: 14.12.2005**

Between:

P.Ramesh,S/o.late Saya Goud,
R/o.3-8-188/2, Shivajinagar, Nizamabad,

Nizamabad District.

**..... PETITIONER**

AND

APSRTC, represented by its Managing Director,

Musheerabad, Hyderabad and another.

**.....RESPONDENTS**

**ORDER:**

The petitioner is a driver in the Nizamabad Depot of APSRTC. On 28.10.2005, while he was driving a bus from Nizamabad to Nirmal, one passenger, by name Syed Shareef, alighted the bus, when it was in motion, sustained injuries and thereafter died. Disciplinary proceedings were initiated against the petitioner alleging that he was negligent in performing his duties. Through an order, dated 21.11.2005, the second respondent placed the petitioner under suspension. The same is challenged in this writ petition.

Sri P.Narasimha Gowd, learned counsel for the petitioner, submits that even according to the order of suspension, the passenger died on account of his alighting

the bus, while in motion, and the petitioner was not supposed to look behind when the bus is in motion. He placed reliance upon the Circular, dated 21.10.1991, and submits that the second respondent was not justified in passing the impugned order.

Sri V.T.M. Prasad, learned Standing Counsel for the respondents, on the other hand, submits that the question, as to whether the petitioner was negligent in performing his duties, can be known only after the departmental enquiry is conducted, and suspension pending enquiry, being a precautionary measure, cannot be interfered with, at this stage.

A perusal of the order of suspension discloses that the passenger, referred to above, died having alighted the bus while it was in motion. The relevant portion reads as under:

> "One alighting passenger by name Sri Sd.Shareef S/O Gulam Ali, aged 60 years, resident of Nirmal, fallen down from the moving bus and sustained injuries, later died at Government Hospital, Nizamabad on the same day."

From this it is evident that the death of the deceased was not on account of any hit by the bus.

Having regard to the occurrence of such instances, the Corporation addressed itself to the issue at large, and issued a Circular dated 21.10.1991. Broad guidelines were laid down as to the nature of action to be taken, depending on the type of mishaps that take place while the bus services are in operation. Clause (d) thereof reads as under:

> "(d) In city/town services accident occurring In accidents occurring due to passenger boarding or alighting due to passengers at unauthorized places or in moving boarding or alighting at buses should not result in issue of unauthorized places or in charge sheets: moving buses in City/ Town services, the drivers shall not be charged."

From this, it is evident that if the accident occurs on account of a passenger boarding or alighting the moving bus or at unauthorized places, the driver shall not be charged. There is a valid rationale behind it, namely, that the driver is not supposed to divert his attention from the road before him, while the bus is in motion.

This Court would not have undertaken further examination of the matter, had it been a case, where there exists any doubt as to the cause of the death of the passenger.

The impugned order itself discloses that the death of the passenger was on account of his alighting the bus, while it was in motion. Such instances are squarely covered by the Circular. In the limited context of considering the justifiability of the suspension, the circular gets attracted, whatever may be the ultimate outcome of the disciplinary proceedings initiated against the petitioner.

For the foregoing reasons, the writ petition is allowed and the impugned order of suspension is set aside. There shall be no order as to costs.

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14.12.2005

Note: Furnish C.C. in three days.

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